

## **REMARKS**

Reconsideration of above referenced application is respectfully requested. After entry of office action response, claims 1-26 remain in the pending application. Applicant's attorney thanks the Examiner for her time in conducting an interview on March 24, 2005. Prior to the interview, Applicant's attorney submitted potential claim amendments. During the interview, the Examiner did not agree with assertions that the prior art did not teach the claimed invention. Accordingly, Applicant's attorney has provided herewith alternate amendments. Applicant's attorney has amended independent claims 1, 7, 12, 17 and 23.

### **35 U.S.C. § 112, Rejection of Claim 25-26**

The Examiner has rejected Claims 25-26 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

### **35 U.S.C. § 102(b), Rejection of Claims 1-23**

The Examiner has rejected Claims 1-23 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 1,844,422 issued to Schmalz or U.S. Patent No. 3,785,045, issued to Komendowski. Applicant's Attorney has amended independent claims 1, 7, 12, 17, 22 and 23, rendering this ground of rejection moot.

The Examiner alleges that Schmalz discloses, in Figures 1-3, a molded closure having an auxiliary helical thread of a first depth and a first pitch, a principle thread of a second thread depth and a second pitch, the second thread depth and second pitch are greater than the first thread depth and first pitch, the closure side wall comprising a first tier and a second tier, wherein the

auxiliary thread is disposed on the first tier and the principle thread is disposed on the second tier.

Anticipation “requires that the same invention, including each element and limitation of the claims, was known or used by others before it was invented by the patentee.” *Hoover Group, Inc. v. Custom Metalcraft, Inc.*, 66 F.3d 299, 302 (Fed. Cir. 1995). “[P]rior knowledge by others requires that all of the elements and limitations of the claimed subject matter must be expressly or inherently described in a single prior art reference.” *Elan Pharms., Inc. v. Mayo Foundation for Medical Educ. & Research*, 304 F.2d 1221, 1227 (Fed.Cir. 2002).

Claim 1, as amended herein requires in part that the auxiliary thread have a first depth and the principle thread have a second depth wherein the second depth is at least about twice the first depth. Alternatively stated, Claim 7 requires the auxiliary thread having a first depth and the principal thread having a second depth, the first depth being less than about one-half the second depth. Stated in yet another way, Claim 12 requires the second depth is greater than the first depth by a factor of at least two. Claims 17 and 23 each require that the depth of the auxiliary thread is about at least one-half the thread depth of the principal thread. As originally drafted, Claim 22 requires that the first thread depth is about double the second thread depth. The claim amendments are supported at page 9 of the Specification. As set forth on page 9 at line 16, “the depth  $d_1$  of the auxiliary thread 20 need only be great enough to provide sufficient engagement between an incomplete molded closure, or short shot, and the molding cavity, so the depth  $d_1$  may be significantly less than the depth  $d_2$  of the principal thread 40. For example, the depth  $d_1$  may be as small as one-half or one-tenth the depth  $d_2$ .” The amended claims and new Claim 25 reflect this relationship.

By contrast, Schmalz discloses a closure 1 have threads 2 disposed along the inner side wall of the closure. Above the threads 2 are ribs for projections 7 which retain a liner in place above the threads 2 and beneath the top wall of the closure 1. Evidencing the function of the projections or threads 7 to retain a liner, the specification states on page 2 at line 73 "the liner engaging threads must have a finer pitch in order to properly engage the thin edge portions of the liner." Thus, Schmalz teaches a closure having a container engaging thread and a thread, rib or projection disposed above the container engaging thread for retaining a liner between the closure top wall and above the container engaging thread.

To the contrary, Applicant's instant invention teaches an auxiliary thread having a first depth and a principle thread having a second depth wherein the second depth is at least about twice that of the first depth. The Schmalz reference fails to teach such a limitation on a molded closure and therefore fails to anticipate Claim 1. Likewise, since Claims 2-6, 8-11, 13-16 and 18-21 depend from the independent claims cited above and including the same limitation previously cited, these claims are not anticipated by Schmalz and the rejection should be withdrawn.

The Examiner also alleges that U.S. Patent No. 3,785,045, issued to Komendowski anticipates the instant invention and teaches a molded closure having an auxiliary helical thread having a first depth and a first pitch and a principle thread having second depth and a second pitch, the second thread depth and second pitch are greater than the first thread depth and the first pitch, the closure side wall comprising a first tier and a second tier, wherein the auxiliary thread is disposed on the first tier and the principle thread is disposed on the second tier.

As previously indicated, Applicant's attorney has amended Claim 1 to require the auxiliary thread having a first depth and the principle thread having a second depth, wherein the second depth is at least about twice the first depth.

To the contrary, the Komendowski reference teaches a combination container and closure therefore. The container has a sealed neck portion for storage of a product within the container. The closure or end cap comprises a cutting blade which severs the sealed top wall of the container neck so that once the closure is in place the closure may be rotatably opened to dispense the product within the container. The closure comprises a fine thread disposed on an inner wall of the annular portion and a coarse thread located on an inner wall of the outer closure skirt. However, the Komendowski reference fails to disclose an auxiliary thread having a first depth and a principle thread having a second depth wherein the second depth is at least about twice the first depth.

Since the Schmalz reference and the Komendowski reference each fail to teach all of the elements of the amended claims, Applicant's attorney respectfully requests this ground of rejection withdrawn.

Applicant's attorney has further added new Claim 25 which is directed to an auxiliary thread of a first depth and a principal thread of a second depth, wherein the second depth is at least twice the first depth. The new claim further requires that the auxiliary thread and the primary thread extend from equivalent radial locations of the cylindrical side wall. As previously described, the Schmalz reference discloses a container engagement thread extending from a side wall and an upper rib, projection, or thread extending inwardly from the closure sidewall. However, the Schmalz reference does not disclose a primary thread having a depth of at least twice an auxiliary thread and extending from equivalent radial locations.

Further, the Schmalz reference also fails to disclose the upper and lower threads extending from a equivalent radial locations. To the contrary, the Schmalz reference discloses the lower thread extending inwardly from a first radial diameter and the upper thread extending inwardly from a second radial diameter for retaining a liner. Thus, the upper and lower threads do not extend from equivalent radial locations of the cylindrical side wall, as required by Claim 25.

Moreover, the Komendowski reference fails to disclose the limitations of new claim 25. Specifically, Komendowski teaches a first thread on a first closure wall and a second thread on a second closure wall inwardly disposed of said first closure wall. Contrary to the new claim 25, Komendowski does not disclose a thread of a first depth and a thread of a second depth wherein said second depth is at least twice said first depth. Further, since the Komendowski reference teaches an outer closure wall and an inner closure wall, the reference fails to disclose an auxiliary thread and primary thread extending from equivalent radial locations of the cylindrical side wall. Accordingly, Applicant's attorney asserts that the combination of limitations of claim 25 is not taught or suggested in the prior art.

Likewise, in new claim 26, the side wall is claimed as substantially continuous. Such structural relationship insures that the principal and auxiliary threads extend from the same radial distance of the side wall. Such a combination of limitations is not taught or suggested in the prior art of record.

### **CONCLUSION**

Applicant's attorney believes that the instant application is now in condition for allowance and therefore respectfully requests that the Examiner allow the pending claims. However, if the

Examiner believes there are other unresolved issues in this case, Applicants' attorney of record would appreciate a call at (502) 584-1135 to discuss such remaining issues.

DATE: \_\_\_\_\_

Respectfully submitted,

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